

GIPSON HOFFMAN & PANCIONE
A PROFESSIONAL CORPORATION

GIPSON HOFFMAN & PANCIONE
A Professional Corporation
GREGORY A. FAYER (State Bar No. 232303)
GFayer@ghplaw.com
ELLIOT B. GIPSON (State Bar No. 234020)
EGipson@ghplaw.com
1901 Avenue of the Stars, Suite 1100
Los Angeles, California 90067-6002
Telephone: (310) 556-4660
Facsimile: (310) 556-8945

Attorneys for Plaintiff
CYBERSitter, LLC d/b/a Solid Oak Software

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA - SOUTHERN DIVISION

CYBERSitter, LLC, a California limited liability company, d/b/a Solid Oak Software,

Plaintiff,

v.

The People's Republic of China, a foreign state; Zhengzhou Jinhui Computer System Engineering Ltd., a Chinese corporation; Beijing Dazheng Human Language Technology Academy Ltd., a Chinese corporation; Sony Corporation, a Japanese corporation; Lenovo Group Limited, a Chinese corporation; Toshiba Corporation, a Japanese corporation; ACER Incorporated, a Taiwanese corporation; ASUSTeK Computer Inc., a Taiwanese corporation; BenQ Corporation, a Taiwanese corporation; Haier Group Corporation, a Chinese corporation; DOES 1-10, inclusive,

Defendants.

CASE NO. CV 10-00038 JST (SH)

**SUPPLEMENTAL DECLARATION
OF ELLIOT B. GIPSON IN
SUPPORT OF PLAINTIFF'S
MOTION FOR ENTRY OF
DEFAULT AGAINST CHINESE
DEFENDANTS**

Judge: Hon. Josephine Staton Tucker
Ctm: 10A

Hearing Date: Sept. 13, 2010
Hearing Time: 10:00 a.m.

Discovery Cutoff: None Set
Pretrial Conference: None Set
Trial Date: None Set

1 **DECLARATION OF ELLIOT B. GIPSON**

2 I, Elliot B. Gipson, declare as follows:

3 1. I am a member in good standing of the bar of the State of California and I
4 have been admitted to practice in this Court. I am an attorney at the law firm of
5 Gipson Hoffman & Pancione, counsel of record for plaintiff CYBERSitter, LLC d/b/a
6 Solid Oak Software ("CYBERSitter" or "Plaintiff"). Except as otherwise stated, I
7 have personal knowledge of the facts set forth herein, and, if called upon as a witness,
8 I could and would competently testify thereto.

9 **Initial Service Attempts on Chinese Entities**

10 2. On or about January 22, 2010, I sent the Ministry of Justice of the
11 People's Republic of China (the "PRC"), Department of Judicial Assistance and
12 Foreign Affairs, Division of Judicial Assistance, packets of documents to serve on the
13 PRC. A true and correct copy of the documents I requested be served on the PRC is
14 attached as **Exhibit N**.

15 3. On or about January 22, 2010, I sent the Ministry of Justice of the PRC,
16 Department of Judicial Assistance and Foreign Affairs, Division of Judicial
17 Assistance, packets of documents to serve on Zhengzhou Jinhui Computer System
18 Engineering Ltd. ("Jinhui") pursuant to Article 5, subsection (a) of the Convention on
19 the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial
20 Matters (the "Hague Convention"), to which the PRC is a signatory. A true and
21 correct copy of the documents I requested be served on Jinhui is attached as **Exhibit**
22 **O**.

23 4. On or about January 22, 2010, I sent the Ministry of Justice of the PRC,
24 Department of Judicial Assistance and Foreign Affairs, Division of Judicial
25 Assistance, packets of documents to serve on Beijing Dazheng Human Language
26 Technology Academy Ltd. ("Dazheng") pursuant to Article 5, subsection (a) of the
27 Hague Convention. A true and correct copy of the documents I requested be served
28 on Dazheng is attached as **Exhibit P**.

1 5. On or about January 22, 2010, I sent the Ministry of Justice of the PRC,
2 Department of Judicial Assistance and Foreign Affairs, Division of Judicial
3 Assistance, packets of documents to serve on Lenovo Group Limited ("Lenovo")
4 pursuant to Article 5, subsection (a) of the Hague Convention. A true and correct
5 copy of the documents I requested be served on Lenovo is attached as **Exhibit Q**.

6 6. On or about January 22, 2010, I sent the Ministry of Justice of the PRC,
7 Department of Judicial Assistance and Foreign Affairs, Division of Judicial
8 Assistance, packets of documents to serve on Haier Group Corporation ("Haier")
9 pursuant to Article 5, subsection (a) of the Hague Convention. A true and correct
10 copy of the documents I requested be served on Haier is attached as **Exhibit R**.

11 7. Attached hereto as **Exhibit S** are true and correct copies of the blank
12 certificates of service for the PRC, Jinhui, Dazheng, Lenovo and Haier, respectively,
13 which were simply returned to Plaintiff by the PRC as they were sent without being
14 filled out.

15 8. While the PRC simply returned Plaintiff's entire packet of service
16 materials, including the certificates of service, the service documents themselves and
17 the checks for effecting service, Japan's initial refusal of Plaintiff's request for service
18 of Sony and Toshiba included filled-out certificates listing the perceived defects,
19 which Plaintiff was then able to work out with the Japanese authorities and the
20 Japanese authorities then proceeded to effect service pursuant to the original requests.
21 Attached hereto as **Exhibit T** are true and correct copies of the certificates of service
22 for Sony and Toshiba as initially returned by Japan, and their respective English
23 translations (translations not included in the original).

24 **Update Regarding Service Attempt on PRC**

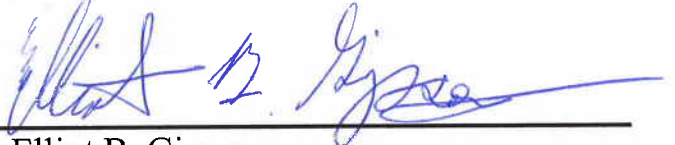
25 9. On or about August 24, 2010, Mr. Jeffrey Allsteadt, Assistant Deputy in
26 Charge of the Clerk's Office – Southern Division of the U.S.D.C. Central District of
27 California, informed me via telephone that he had forwarded two copies each of the
28 Complaint, Summons, Notice of Suit, and translations of each into simplified Chinese

(together, the "PRC Documents"), as well as my declaration stating why this manner of service was necessary, to the U.S. State Department for service on the PRC pursuant to 28 U.S.C. §1608(a)(4). These documents were sent to the U.S. State Department via overnight FedEx and delivery was confirmed. A true and correct copy of this delivery confirmation is attached as **Exhibit U**.

10. On or about August 25, 2010, I sent a letter to Mr. Bill Fritzlen of the U.S. State Department, enclosing a check for \$2,275 made payable to U.S. Embassy Beijing for service of the PRC Documents on the PRC. These documents were sent to the U.S. State Department via overnight FedEx and delivery was confirmed. A true and correct copy of this delivery confirmation is attached as **Exhibit V**.

11. On or about August 27, I spoke with Mr. Bill Fritzlen via telephone. He confirmed that he had received the PRC Documents and the check for \$2,275. Mr. Fritzlen further confirmed that everything was in order and that the State Department would forward the PRC documents to the U.S. Embassy Beijing the week of August 30, 2010. He estimated that it would take two to three weeks to receive a return certificate back from the U.S. Embassy Beijing indicating that the PRC had been served.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct. Executed on August 30, 2010, at Los Angeles, California.



Elliot B. Gipson